




TRADEMARK TRIAL AND
DESIGN BOARD
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Registered
Trade Order

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing REQUEST FOR ENTRY OF CONSENTED TO FORM OF PROTECTIVE ORDER was served this 15th day of October, 2002, via first class mail, postage prepaid, on counsel for Opposer:

Lynn A. Sullivan
Elizabeth C. Diskin
LEYDIG, VOIT & MAYER, LTD.
Two Prudential Plaza - Suite 4900
Chicago, Illinois 60601



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Baxter International Inc.,)	
)	
Opposer,)	
)	
v.)	Opposition No. 91150298
)	Application No. 76-151,380
)	
Inviro Medical Devices Ltd.,)	
)	
Applicant.)	

**PROTECTIVE ORDER REGARDING
CONFIDENTIAL INFORMATION**

In accordance with the parties' mutual desire to prevent inappropriate dissemination of information that is confidential to their businesses and which may be requested in the course of discovery in this action, and pursuant to F.R.C.P. 26(c), it is hereby agreed to and ordered:

1. "Confidential information" as used herein means all documents and information which Opposer, on its behalf, or Applicant, on its behalf, considers to be confidential to the operation of its business.
2. Each party (hereinafter the "Disclosing, Producing or Designating Party") to this action who produces or discloses any documents, things, interrogatory answers, deposition transcripts, or information which the Disclosing, Producing or Designating Party wishes to be considered as Confidential Information subject to this Protective Order (hereinafter cumulatively referred to as "Protected Subject Matter") may designate the same as "CONFIDENTIAL" or designations of similar import, prior to its production to the other party (hereafter the "Receiving Party").

3. All protected subject matter designated as "CONFIDENTIAL" shall not be disclosed by the Receiving Party to anyone other than those persons designated herein and shall be handled in the manner set forth below and, in any event, shall not be used or disclosed for any purpose other than in connection with this action unless and until such designation is removed by either agreement of counsel for the parties or by order of the Trademark Trial and Appeal Board (hereinafter "TTAB").

4. All portions of any documents, depositions, testimony or other information filed with the TTAB, which has heretofore been designated as "CONFIDENTIAL", shall be filed in sealed envelopes or other appropriate sealed containers, on which shall be endorsed the title of the action(s), an indication of the nature of the contents of such sealed envelope or other container, the word "CONFIDENTIAL", and a statement substantially in the following form: "This envelope containing documents which are filed in the case by (name of party) is not to be opened nor the contents thereof to be displayed or revealed except by order of the TTAB."

5. If materials designated as CONFIDENTIAL are used or referred to in any brief or memorandum in these actions, the brief (or memorandum or portion thereof) shall, unless otherwise agreed among the parties or ordered by the TTAB, be marked CONFIDENTIAL and filed under seal with unsealed copies being permitted to the TTAB, its law clerks and person permitted access to the particular type of protected subject matter under this Protective Order.

6. All documents and materials produced for inspection and copying or which are received by counsel for either party in this action which have been designated by another party as "CONFIDENTIAL" shall be retained by counsel of record and shall

not be disclosed to anyone other than attorneys and their firms, and clerical staff or such counsel's office including paralegals, secretarial or other personnel who are directly assisting counsel for the parties in the preparation of these actions (hereinafter "Support Staff.")

7. Answers, documents, articles and things designated as CONFIDENTIAL hereunder may be used in depositions when the deponent is from the party from which the material emanated, with instructions to the reporter that, pursuant to this Protective Order, the deposition and deposition exhibits if required to be filed, shall be filed in the TTAB under Confidential seal with instructions to the Clerk of the TTAB that, pursuant to this Protective Order, the documents filed under seal are not to be disclosed to any person other than the TTAB unless otherwise ordered by the TTAB. The instructions may be made to the court reporter in accordance with the provisions of paragraph 11.

8. All portions of the transcripts of depositions, copies of Exhibits, Answers to Interrogatories and all other documents and materials produced for inspection or which are received by counsel for any party in these actions which have been designated by another party as "CONFIDENTIAL" shall not be furnished, shown or disclosed to any person except the aforementioned counsel presently of record in these actions for Receiving Party, counsel's Support Staff participating in these actions and experts either expected to testify in these actions or employed by counsel in order to assist in preparation for testimony of others and who are not directly employed by any party or under contract with any party for any purpose other than these actions, and who are not and have not been competitors of any party or employed by a competitor of any party. Each such expert must sign a copy of this protective order undertaking to abide by the

terms hereof before receiving any such information and a copy of the signed undertaking shall be provided to opposing counsel.

9. No person shall make public disclosures of any Protected Subject Matter designated as "CONFIDENTIAL" pursuant to this Protective Order without further order of the TTAB or as agreed by the parties to these actions.

10. The parties will not designate as "CONFIDENTIAL" any information that they have a valid and reasonable belief was not maintained in confidence and/or was known or available generally to the public prior to its designation. In the event that the Receiving Party shall at any time disagree with the designation by the Producing Party of any information, the parties will first try to resolve such dispute on an informal basis before presenting the dispute to the TTAB by motion or otherwise. The burden of going forward shall be on the party challenging confidentiality and if an objection is made and the objecting party does nothing further, the documents shall be deemed confidential.

11. Depositions. Portions of deposition transcripts may be designated either (a) during the deposition, in which case the transcript of the designated testimony shall be bound in a separate volume and marked either "CONFIDENTIAL" by the reporter, or (b) by written notice to the reporter and to all counsel of record, given with ten (10) days after a deposition transcript is received by the deponent or his counsel, in which case all counsel receiving transcript shall be responsible for marking the copies of the designated transcript in their possession or under their control as directed by the designating party. Pending the expiration of ten (10) days after a deposition transcript is received by the deponent or his counsel, all parties shall treat the deposition transcript as if it has been designated "CONFIDENTIAL". The designating party shall have the right to have all

persons, except the deponent and his counsel, outside counsel of record for named parties, the court reporter, and such other persons as are permitted under paragraph 6 hereof, excluded from a deposition, or any portion thereof, during the taking therein of testimony which the designated party designated under this Order.

12 All Protected Subject Matter and any copies made thereof designated as "CONFIDENTIAL" shall be returned to the Producing Party within ninety (90) days of the conclusion of this action or after a decision on appeal from which further review is not being requested of the same or higher appellate tribunal, whichever is later.

 Date: 10-5-02

Elizabeth C. Diskin
Attorney for Opposer, Baxter International Inc.

So Ordered:

Trademark Trial and Appeal Board
Dated: _____

 Date: 9-27-02

Duane M. Byers
Attorney for Applicant, Inviro Medical Devices, Ltd.